

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
ENTERTAINMENT MEDIA TRUST,	)	MB Docket No. 19-156
DENNIS J. WATKINS, TRUSTEE	)	
	)	
Applications to Renew License:	)	
	)	
KFTK(AM) (formerly WQQX(AM)), East St.	)	Facility ID No. 72815
Louis, Illinois	)	File No: BR-20120709ACP
	)	
WQQW(AM), Highland, Illinois	)	Facility ID No. 90598
	)	File No. BR-20120709AC0
	)	
KZQZ(AM), St. Louis, Missouri	)	Facility ID No. 72391
	)	File No. BR-20120921AAW
	)	
KQQZ(AM), DeSoto, Missouri	)	Facility ID No. 5281
	)	File No. BR-20120921ABA
	)	
Application for Consent to Assignment of	)	
Licenses:	)	
	)	
KFTK(AM) (formerly WQQX(AM)), East St.	)	Facility ID No. 72815
Louis, Illinois	)	File No: BAL-20160919ADH
	)	
WQQW(AM), Highland, Illinois	)	Facility ID No. 90598
	)	File No. BAL-20160919ADI
	)	
KZQZ(AM), St. Louis, Missouri	)	Facility ID No. 72391
	)	File No. BAL-20160919ADJ
	)	
KQQZ(AM), DeSoto, Missouri	)	Facility ID No. 5281
	)	File No. BAL-0160919ADK
	)	
Application for Permit to Construct New	)	Facility ID No. 200438
Station:	)	File Nos. BNPFT-20170726AEF
	)	BNPFT-20180314AAO
W275CS, Highland, Illinois	)	

To: Marlene H. Dortch, Secretary  
Attn: Administrative Law Judge Jane Hinckley Halprin

**ENFORCEMENT BUREAU'S RESPONSE TO  
CHAPTER 7 TRUSTEE'S PETITION FOR LEAVE TO INTERVENE**

1. In *Order*, FCC 19M-11, the Presiding Judge directed the Chapter 7 Trustee to file a petition for leave to intervene in this proceeding pursuant to section 1.223 of the Commission's rules within four calendar days of the grant of the pending application for involuntary assignment filed on behalf of Entertainment Media Trust, Dennis Watkins, Trustee (EMT).<sup>1</sup> On October 15, 2019, the Chapter 7 Trustee filed his petition.<sup>2</sup>

2. On October 16, 2019, the day after the Chapter 7 Trustee's filing in this proceeding, EMT filed a motion with the U.S. Bankruptcy Court for the Southern District of Illinois (Bankruptcy Court) to voluntarily dismiss the Chapter 7 bankruptcy.<sup>3</sup> The Chapter 7 Trustee opposed EMT's motion.<sup>4</sup> If the Bankruptcy Court grants EMT's motion, and the bankruptcy case is dismissed, then it would appear that the Chapter 7 Trustee's petition would be moot. In addition, there would be no basis to delay this proceeding any further.

3. Nonetheless, until there is a ruling in the Bankruptcy Court suggesting otherwise, it is the Enforcement Bureau's (Bureau) understanding that the Chapter 7 Trustee remains "in the shoes" of EMT for the purposes of this proceeding. For the reasons stated below, therefore, the Chief, Enforcement Bureau, through her attorneys, does not object to the Chapter 7 Trustee's intervention.

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<sup>1</sup> See *Order*, FCC 19M-11 (ALJ, rel. Oct. 4, 2019), at 8, para. 18.

<sup>2</sup> See *Petition for Leave to Intervene* (Oct. 15, 2019) (Petition).

<sup>3</sup> See *In re Entertainment Media Trust*, BK 19-31224, Motion for Voluntary Dismissal (Oct. 16, 2019), attached hereto as Exhibit A.

<sup>4</sup> See *In re Entertainment Media Trust*, BK 19-31224, Objection to Debtor's Motion to Dismiss (Oct. 17, 2019), attached hereto as Exhibit B.

4. However, in addition to seeking leave to intervene, the Chapter 7 Trustee also appears to be seeking a stay of this proceeding without providing any basis to justify the delay. The Chief, Enforcement Bureau, through her attorneys, respectfully opposes the Chapter 7 Trustee's request for a stay.

#### **The Chapter 7 Trustee's Request to Intervene**

5. Pursuant to section 1.223(c) of the Commission's rules, "[a]ny person desiring to file a petition for leave to intervene later than 30 days after the publication in the Federal Register of the full text or a summary of the order designating an application for hearing . . . shall set forth the interest of petitioner in the proceeding [and] show how such petitioner's participation will assist the Commission in the determination of the issues" designated for hearing.<sup>5</sup> In support of the Petition, the Chapter 7 Trustee asserts that he "is now the party which controls the licensee, EMT."<sup>6</sup> Indeed, he requests that he be deemed to be the "Applicant" for the purposes of this proceeding – *i.e.*, that he be substituted for EMT.<sup>7</sup> It would appear, therefore, that if the bankruptcy case moves forward, it is the Chapter 7 Trustee (and not EMT) who has control over the information and documentation necessary to proceed with this case. As a result, the Bureau does not object to the Chapter 7 Trustee's participation in this proceeding.

#### **The Chapter 7 Trustee's Request to Stay This Proceeding**

6. The Bureau does object, however, to the Chapter 7 Trustee's "suggestion" that there should be an "abeyance of discovery in this proceeding" while he identifies and selects a successful bidder for EMT's assets, contracts with that bidder with the approval of the Bankruptcy Court, and files an application with the Media Bureau for consent to the assignment

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<sup>5</sup> 47 CFR § 1.223(c).

<sup>6</sup> Petition at 2, para. 3.

<sup>7</sup> See *id.* at 3.

(continued....)

of the licenses at issue pursuant to the *Second Thursday* exception to the *Jefferson Radio* policy.<sup>8</sup> This “suggestion” is nothing more than a thinly-veiled renewed request for the very same motion to stay that EMT already filed and the Presiding Judge already denied.

7. Due in no small part to the actions taken by EMT, this case has been in abeyance long enough. It is time to move forward. The Bureau served its first sets of discovery on EMT on August 20, 2019 – nearly two months ago.<sup>9</sup> Instead of providing its responses to these requests within the time frames proscribed by the Commission’s rules,<sup>10</sup> EMT has done everything it could to avoid providing the discovery to which the Bureau is entitled. First, it filed motions for extension of time on the day its responses were due.<sup>11</sup> Then, it provided incomplete responses to the Bureau’s document requests.<sup>12</sup> Then, just two days later, it filed for bankruptcy protection on the eve of the deadline by which the Presiding Judge had ordered EMT to respond to the Bureau’s first set of interrogatories.<sup>13</sup> And then, the next day, it filed a groundless motion to stay that the Presiding Judge denied two weeks ago.<sup>14</sup>

8. In that *Order*, the Presiding Judge concluded that neither EMT nor the Chapter 7 Trustee (who was given leave to file a reply in support of EMT’s motion) had “provided

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<sup>8</sup> See *id.* at 2-3, paras. 4 and 5. The Chapter 7 Trustee appears to be requesting that the Presiding Judge add the issue of the abeyance of discovery to the issues already designated for hearing. See *id.* at 3, para. 5. This makes no sense. Issues designated for hearing consist of substantial and material questions of fact pertinent to determining whether the captioned applications should be granted. They do not consist of procedural or scheduling requests.

<sup>9</sup> See Enforcement Bureau’s First Request for Production of Documents to Entertainment Media Trust, Dennis J. Watkins, Trustee (Aug. 20, 2019); Enforcement Bureau’s First Set of Interrogatories to Entertainment Media Trust, Dennis J. Watkins, Trustee (Aug. 20, 2019).

<sup>10</sup> See 47 CFR § 1.323 (providing party 14 days to respond to interrogatories); 47 CFR § 1.325 (providing party 10 days to respond to document requests).

<sup>11</sup> See EMT’s Motion for Extension of Time (Aug. 30, 2019); EMT’s Motion for Extension of Time (Sept. 3, 2019).

<sup>12</sup> See Enforcement Bureau’s Motion to Compel Complete Responses to Its Requests For Production of Documents (Sept. 16, 2019).

<sup>13</sup> See *Order*, FCC 19M-08 (ALJ, rel. Sept. 6, 2019), at 3, para. 5; see also *In re Entertainment Media Trust*, BK 19-31224, Voluntary Petition for Non-Individuals Filing for Bankruptcy (Sept. 11, 2019).

<sup>14</sup> See Motion for Stay of Proceedings or in the Alternative Extension of Time (Sept. 11, 2019); *Order*, FCC 19M-11 (ALJ, rel. Oct. 4, 2019).

(continued....)

sufficient justification to support a long-term stay of this hearing proceeding.”<sup>15</sup> In the Petition, the Chapter 7 Trustee fails to present anything new to justify the requested delay. He still has not demonstrated that a stay of this proceeding satisfies any of the factors of the four-factor *Virginia Petroleum Jobbers* test.<sup>16</sup> In fact, he does not even reference this test in the Petition. Additionally, he still has not presented any evidence to make the case for application of *Second Thursday* as such arguments are still – by his very admission – premature.<sup>17</sup> Moreover, in light of EMT’s recent motion to dismiss the bankruptcy case, it is unclear whether EMT will even have the option to request extraordinary relief pursuant to the *Second Thursday* exception to the *Jefferson Radio* policy. Consistent with her October 4, 2019 ruling, therefore, we anticipate the Presiding Judge will issue an Order lifting the temporary suspension of discovery, ordering the Chapter 7 Trustee to respond to the pending discovery requests, and allowing this case to proceed.<sup>18</sup>

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<sup>15</sup> *Order*, FCC 19M-11, at 8, para. 15.

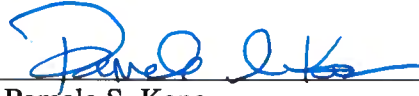
<sup>16</sup> *See, e.g., id.* at 5-8, paras. 10-14.

<sup>17</sup> *See Reply to Oppositions* (Sept. 23, 2019) at 9, para. 14.

<sup>18</sup> *See Order*, FCC 19M-11, at 8, para. 15.

Respectfully submitted,

Rosemary C. Harold  
Chief, Enforcement Bureau



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Pamela S. Kane  
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October 18, 2019

## **EXHIBIT A**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

IN RE:	)	In Proceedings
	)	Under Chapter 7
ENTERTAINMENT MEDIA TRUST	)	
	)	BK 19-31224
Debtor.	)	
	)	
	)	

**MOTION FOR VOLUNTARY DISMISSAL**

Come now Debtor, ENTERTAINMENT MEDIA TRUST, by and through its attorney, J.D. GRAHAM, and moves to voluntarily dismiss the above-captioned Chapter 7 bankruptcy proceeding.

RESPECTFULLY SUBMITTED,

By: /s/J.D. Graham  
J.D. Graham #06211732  
J.D. GRAHAM, P.C.  
Attorney for Debtor  
1103 Frontage Rd.  
O'Fallon, IL 62269  
618.235.9800  
618.235.9805 fax  
jd@jdgrahamlaw.com



**CERTIFICATE OF SERVICE**

Come now Debtor, ENTERTAINMENT MEDIA TRUST, by and through its attorney, J.D. GRAHAM, and certify that on October 16, 2019 via first-class mail, postage prepaid, a true and accurate copy of the Motion for Voluntary Dismissal was served upon the following persons that were not served electronically:

/s/ Meghan Csontos  
J.D. Graham #06211732  
J.D. GRAHAM, P.C.  
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Donald M. Samson  
Chapter 7 Trustee  
226 W Main St., Suite 102  
Belleville, IL 62220

U.S. Trustee  
Becker Building, Ste. 1100  
401 Main St.  
Peoria, IL 61602

All creditors on mailing matrix

## **EXHIBIT B**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

In Re:	) IN CHAPTER 7 PROCEEDINGS
	)
ENTERTAINMENT MEDIA TRUST,	) BK 19-31224
	)
Debtor(s).	)
	)
DONALD M. SAMSON, Trustee,	)
	)
Movant,	)
	)
Vs.	)
	)
THE FEDERAL COMMUNICATIONS	)
COMMISSION,	)
	)
Respondent,	)

**OBJECTION TO DEBTOR'S MOTION TO DISMISS**

Comes now Donald M. Samson, trustee, and files this Objection to Debtor's Motion to Dismiss and in support thereof states as follows:

1. That since the filing of the bankruptcy in order to preserve the assets of this estate the trustee has:
  - a. Employed attorney Davina S. Sashkin of Fletcher, Heald & Hildreth, PLC and Anthony Lepore of Radiotvlaw Associates, LLC to represent the interests of the bankruptcy estate in the pending FCC litigation to keep the licenses held by debtor from being terminated and to obtain FCC approval of a sale of the licenses.
  - b. Employed attorney Robert Eggmann of Carmody MacDonald P.C. to represent the trustee in stay proceedings in the Bankruptcy Court and to receive bankruptcy court approval of a sale of the licenses.
2. There have been extensive briefs in both the FCC and Bankruptcy Court litigation with the estate incurring substantial administrative costs.
3. There is presently pending before the Court a Motion for a §363 Sale of the licenses with competing bid(s) submitted.

4. It is not in the best interest of the estate or parties in interest to grant debtor's Motion to Dismiss the bankruptcy.

WHEREFORE, Donald M. Samson, trustee, prays that the Motion to Dismiss filed by debtor Entertainment Media Trust be denied and for such further relief as this Court deems just and equitable.

DATE: 10/17/19

/s/ Donald M. Samson  
DONALD M. SAMSON, Trustee  
226 W. Main St., Ste., 102  
Belleville, IL 62220  
618-235-2226

CERTIFICATE OF SERVICE

The undersigned certifies that on the 17th day of October, 2019, a copy of the foregoing document, Objection to Debtor's Motion to Dismiss, was served upon the following either electronically or by first class mail, postage prepaid:

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/s/ Tara Schaefer

## **CERTIFICATE OF SERVICE**

Pamela S. Kane certifies that she has, on this 18th day of October, 2019, sent copies of the foregoing "ENFORCEMENT BUREAU'S RESPONSE TO CHAPTER 7 TRUSTEE'S PETITION FOR LEAVE TO INTERVENE" via email to:

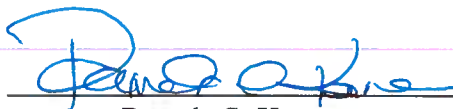
The Honorable Jane H. Halprin  
Administrative Law Judge  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

John B. Adams  
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Pamela S. Kane